

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

ELMO AUGUSTUS REID,)
)
Plaintiff,)
) CIVIL ACTION NO.
v.) 7:16-cv-00547
)
MARK AMONETTE, et al.,)
)
Defendants.)

**DEFENDANTS AMONETTE, BOOKER, SHIPP, AND HERRICK'S
SUPPLEMENTAL RULE 26(a)(3) DISCLOSURES**

COME NOW Defendants Mark Amonette, MD, Bernard Booker, Pamela Shipp, and Steve Herrick (collectively "Defendants"), by counsel, and make the following supplemental pre-trial disclosures pursuant to Fed. R. Civ. P. 26(a)(3):

I. Rule 26(A)(3)(A)(i) Identification of Witnesses

A. Defendants will present the following witnesses at trial:

1. Mark Amonette, MD
2. Bernard Booker
3. Pamela Shipp
4. Steve Herrick, Ph.D
5. Newton Kendig, MD
6. Allan Morrison, MD
7. Chad Zawitz, MD

B. Defendants may present the following witnesses at trial if the need arises:

1. Elmo A. Reid
2. N.H. Scott

3. Fred Schilling
4. Harold Clarke
5. Trey Fuller
6. Richard Sterling, MD
7. Ricardo Martinez, MD
8. William York, MD
9. Reena Cherian, NP
10. Linda Capen

11. Any and all witnesses identified and/or called by the Plaintiff to which the Defendants have no objection.

12. Impeachment and rebuttal witnesses as necessary.

13. Custodians of records to authenticate documents if necessary (absent agreement regarding authentication of records by counsel).

II. Rule 26(A)(3)(A)(ii) Deposition Designations

The Defendants designate the following portions of deposition testimony:

Deposition of Elmo Augustus Reid, Jr. (April 24, 2018)

Page/Line

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The Defendants reserve the right to designate depositions if a witness listed becomes unavailable.

III. Rule 26(A)(3)(A)(ii) Identification of Exhibits

A. Defendants designate the following materials produced and obtained through discovery that they expect to present as trial evidence:

1. Chad Zawitz, MD's *curriculum vitae*;
2. Newton Kendig, MD's *curriculum vitae*;
3. Allan Morrison, MD's *curriculum vitae*;
4. All medical and other literature referenced in Defendants' Rule 26(a)(2) Expert Disclosures;
5. Plaintiff's medical records from the Virginia Department of Corrections;
6. Plaintiff's grievance records from the Virginia Department of Corrections, to include but not limited to the following:
 - a. July 15, 2015 Informal Complaint (Reid0000007);
 - b. June 30, 2015 Regular Grievance (00006);

- c. July 20, 2015 Offender Grievance Response – Level 1 (00007);
- d. July 31, 2015 Offender Grievance Response- Level II (00008);
- e. September 7, 2016 Informal Complaint (00010);
- f. September 9, 2016 Regular Grievance (00011);
- g. September 29, 2016 Offender Grievance Response- Level I (00012);
- h. October 24, 2016 Offender Grievance Response- Level II (00013) ;
- i. June 24, 2018 Informal Complaint (000800).

7. VCUHS Radiology Report November 6, 2013 (VCUHS000766-VCUHS000770);

8. VCUHS Procedure Report October 7, 2015 (VCUHS000750-VCUHS000761);

9. Fibroscan Examination Report October 8, 2015 (VCUHS000762- VCUHS000765);

10. Health Services Organizational Chart (produced and marked in discovery);

11. Virginia Department of Corrections Guidelines for treatment of Hepatitis C (from 2015-2017)(produced and marked in discovery);

12. May 2018 Virginia Department of Corrections Guidelines for treatment of Hepatitis C (000774 – 000778);

13. Memorandum of Understanding between Virginia Department of Corrections and Virginia Commonwealth University Health Systems with attachment (VDOC11000001 and attachment produced and marked in discovery);

14. Summary of HCV Treatment (VCUHS000391)(Confidential);

15. August 15, 2013 Email from Amonette to Dr. Harrison (00148);

16. February 5, 2015 Letter from Reid to Amonette (Reid000079-Reid000080);

17. March 3, 2015 Letter from Reid to Amonette (Reid000097);

18. March 5, 2015 Letter from Amonette to (Reid000098);

19. July 6, 2015 email from Amonette to Dr. Moreno (00109);
20. July 6, 2015 Letter from Amonette to Reid (000593);
21. March 7, 2017 Email from Amonette to Dr. Martinez (00096);
22. April 12, 2018 Email from Fuller to Amonette, with attachment (produced and marked in discovery);
23. 2016 Virginia Medicaid Hepatitis C Treatment Approval Criteria;
24. Hepatitis C: the State of Medicaid Access; National Summary Report, November 2016 and 2017; NVHR, Center for Health Law & Policy Innovation, Harvard Law School;
25. AASLD/ISA Hepatitis C Guidance (2013- present)(versions produced to date in the case and/or subsequent revisions);
26. Federal Bureau of Prisons Hepatitis C Clinical Guidance (2013-present) (versions produced to date in the case and/or subsequent revisions);
27. Gowda C, Lott S, et al., Absolute Insurer Denial of Direct-Acting Antiviral Therapy for Hepatitis C: A National Specialty Pharmacy Cohort Study, Open Forum Infectious Disease (000789-000795);
28. July 2018 Virginia Department of Corrections Guidelines for treatment of Hepatitis C (000801 – 000814).

By identifying or referring to any exhibit in this disclosure, Defendants neither stipulate, promise nor agree that they will offer any such exhibit into evidence, nor do they stipulate or agree to waive any objection should Plaintiff attempt to offer such exhibits into evidence.

Defendants reserve the right to amend, enlarge and supplement or otherwise modify this disclosure as necessary.

B. Defendants designates the following materials produced and obtained through discovery that they may present as trial evidence:

1. March 1, 2018 Operating Procedure 701.1, including prior versions produced and marked in discovery;
2. December 1, 2015 Operating Procedure 740.1, including prior versions produced and marked in discovery;
3. January 1, 2017 Operating Procedure 740.1, including prior versions produced and marked in discovery;
4. May 11, 2015 Letter from Melissa Welch to Reid (Reid000099);
5. Hepatitis C Treatment Proposal (VCUHS000056- VUCHS000058);
6. Identification and Treatment of Inmates with HCV Therapy (VCUHS000207);
7. Summary of HCV Treatment Data in the VA DOC (VCUHS000391);
8. Treatment of HCV in the Department of Corrections in the Era of Oral Medications, by Richard K. Sterling, MD (Reid000221-230);
9. Deposition exhibits not specifically enumerated herein;
10. Any documents properly designated by Plaintiff to which the Defendants have no objection;
11. Any documents for rebuttal or impeachment purposes only.

Defendants reserve the right to rely upon any pleadings filed and/or written discovery responses of the plaintiff and/or deposition testimony taken during the course of discovery, and any or all attached exhibits. Further, Defendants reserve the right to use as an exhibit any responses, documents, or exhibits produced by the Plaintiff, Dr. Sterling, VCU, VCUHS, and/or the VDOC in discovery.

Defendants reserve the right to utilize demonstrative exhibits, including but not limited to, illustrations, charts, timelines, models, computer animation, and enlargements of portions of medical records. All such demonstrative exhibits shall be made available to the Plaintiff, upon request, at the offices of Sands Anderson, PC, prior to the trial of this matter.

Defendants reserve the right to identify additional persons with knowledge and/or rely upon any other document or information identified in the course of this litigation and further reserve the right to amend these disclosures at a later time as they deem appropriate.

Defendants reserve the right to use diagrams, charts, pictures, medical illustrations, or other objects or documents during the course of opening statements, direct examination, cross examination, or closing arguments. Such items will be exhibited but not introduced into evidence. Any such objects or documents will be provided to opposing counsel if requested.

Defendants reserve the right to supplement and amend this list as circumstances and judicial fairness dictate.

RESPECTFULLY SUBMITTED,

MARK AMONETTE
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PAMELA SHIPP
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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of August 2018, I filed the foregoing using the court's ECF/CM system which sent notification to the following:

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